

FCC MAIL SECTION

Federal Communications Commission

DA 99-561

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Before the
 DISPA Federal Communications Commission
 Washington, D.C. 20554

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| In the Matter of |) | |
| |) | CC Docket No. 99-35 |
| Long-Term Telephone Number Portability |) | |
| Tariff Filings of |) | |
| |) | |
| U S WEST Communications, Inc. |) | Transmittal Nos. 965 and 975 |

ORDER DESIGNATING ISSUES FOR INVESTIGATION

Adopted: March 25, 1999

Released: March 25, 1999

Direct Case Date: April 23, 1999
 Oppositions/Comment Date: May 3, 1999
 Rebuttal Date: May 17, 1999

By the Deputy Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On February 9, 1999, the Common Carrier Bureau released the *U S WEST Suspension Order, Transmittal No. 965*, which suspended U S WEST's number portability tariff filing for one day, imposed an accounting order, and initiated an investigation into several issues raised by U S WEST's tariff filing.¹ The Bureau concluded that the tariff filed by U S WEST raised significant questions of lawfulness that warrant investigation. On March 9, 1999, U S WEST filed Transmittal No. 975, proposing to increase the long-term number portability rates previously filed in Transmittal No. 965.² U S WEST filed Transmittal No. 975 with an effective date of March 24, 1999. On March 22, 1999, the Bureau released the *U S WEST Suspension Order, Transmittal No. 975*, which suspended U S WEST's second number portability tariff filing and made it subject to the investigation

¹ Long-Term Number Portability Tariff Filing of U S WEST Communications, Inc., CC Docket No. 99-35, *Memorandum Opinion and Order*, DA 99-306 (Com. Car. Bur., rel. Feb. 9, 1999) (*U S WEST Suspension Order, Transmittal No. 965*).

² See U S WEST Transmittal No. 975, filed Mar. 9, 1999; U S WEST Transmittal No. 965, filed Jan. 26, 1999.

initiated by the *U S WEST Suspension Order, Transmittal No. 965*.³ In this Order, the Bureau designates for investigation the issues discussed below.

II. LEVEL OF COSTS AND CHARGES

A. Background

2. In the *Third Report and Order*, the Commission determined that incumbent local exchange carriers (LECs) may recover their carrier-specific costs directly related to establishing and providing number portability through end-user and query service charges.⁴ The Commission limited the costs eligible for recovery through these new federal mechanisms to "costs carriers incur specifically in the provision of number portability services, such as for the querying of calls and the porting of telephone numbers from one carrier to another."⁵ The Commission concluded that the costs carriers incur as an incidental consequence of number portability are not eligible for recovery as costs directly related to providing number portability, but are ordinary costs of doing business in the new competitive environment.⁶ The ordinary price cap and rate-of-return cost recovery mechanisms provide incumbent LECs with the opportunity to recover the costs of modernizing their networks in order to keep pace with technological and market developments, and to maintain high standards of service quality.⁷

B. Petitions

3. AT&T states that U S WEST's proposed end-user and query rates are higher than those proposed by other LECs.⁸ AT&T argues that U S WEST seeks to include a

³ See In the Matter of Local Telephone Number Portability Tariff Filings of U S WEST Communications, Inc., Transmittal No. 975, *Memorandum Opinion and Order*, CC Docket No. 99-35, DA 99-560 (Com. Car. Bur., rel. Mar. 22, 1999) (*U S WEST Suspension Order, Transmittal No. 975*).

⁴ In the Matter of Long-Term Number Portability, *Third Report and Order*, 13 FCC Rcd 11701, 11740, 11778-79, paras. 74, 147 (1998) (*Third Report and Order*).

⁵ *Third Report and Order*, 13 FCC Rcd at 11740, para. 72.

⁶ *Id.*

⁷ In the Matter of Long-Term Number Portability Cost Classification Proceeding, *Memorandum Opinion and Order*, CC Docket No. 95-116, DA 98-2534 at 6, para. 6 (Com. Car. Bur., rel. Dec. 14, 1998) (*Cost Classification Order*).

⁸ See generally AT&T's Petition to Reject or Suspend U S WEST's Tariff, filed Feb. 2, 1999 at 3 (AT&T Petition).

substantial amount of "administrative costs" and "business fees" in its query services costs without providing an adequate explanation.⁹ AT&T states that the information contained in U S WEST's transmittal is "patently insufficient" to allow the Commission or commenters to confirm that the expenses claimed are only incremental expenditures directly related to number portability.¹⁰

C. Replies

4. U S WEST maintains that it has adequately explained the administrative costs and business fees included in its number portability query charges and that all of the costs included are reasonable and clearly incremental to number portability.¹¹

D. Discussion

5. As a preliminary matter, we note that U S WEST submitted extensive confidential cost material with its filing. This confidential material was not discussed or explained either in the public Description and Justification accompanying the filing or in any confidential narrative accompanying the confidential cost materials. We are unable to trace the development of U S WEST's rates from this confidential cost material, and certain portions appear to be internally inconsistent. We require U S WEST to supply a narrative explanation of how costs were developed in the confidential filing already filed, as well as in any other confidential filings to be made as part of its direct case. This narrative will be subject to the same confidentiality arrangements as the confidential filings.¹²

6. Our review of U S WEST's filing reveals that U S WEST deployed number portability through the use of four pairs of service control points (SCPs) for number portability to enable its signal transfer points (STPs) to support number portability throughout the U S WEST region.¹³ U S WEST also purchased a fifth SCP pair for use with Message Relay Service.¹⁴ Although U S WEST argues that Message Relay Service supports query

⁹ AT&T Petition at 8.

¹⁰ *Id.*

¹¹ U S WEST Reply, filed Feb. 8, 1999 at 7 (U S WEST Reply).

¹² See In the Matter of Long-Term Telephone Number Portability Tariff Filings, *Order*, CC Docket No. 95-116, DA 99-128, para. 8 (Com. Car. Bur., rel. Jan. 8, 1999).

¹³ U S WEST Transmittal No. 965, D&J, Section 3.2.3 "Service Control Points" at 16-18.

¹⁴ *Id.* at 16.

routing associated with number portability, this service also supports other Custom Local Area Switching Services (CLASS). The costs of the fifth SCP, therefore, may not qualify as an eligible number portability cost. We direct U S WEST to explain why it believes this SCP pair is "for the provision of number portability" rather than for the provision of other services.

7. U S WEST states that it based its query charges on an estimate of the "forward looking incremental cost" of performing queries. This estimate was produced by means of a switching cost model that U S WEST maintains. Our preliminary review of this cost model suggests that the cost model result may include costs for which recovery already is provided through other recovery mechanisms. Moreover, it is not clear that this model accurately estimates the actual additional costs incurred for the provision of local number portability. The use of a model in a manner that does not attempt to calculate true incremental costs may be inconsistent with the *Cost Classification Order's* requirement that only incremental costs may be recovered through these federally-authorized charges.

8. Based upon a review of the tariff filings, we here designate for investigation whether U S WEST's use of its cost model to estimate its signalling costs of number portability results in the inclusion of some costs for which recovery already is provided through other recovery mechanisms and, therefore, produces an inaccurate estimate of actual number portability costs. We direct U S WEST to file, as part of its direct case, actual expenditures, including expenditures to date and planned actual expenditures within the recovery period, for the number portability costs that it estimated using its switching cost model. U S WEST must explain the basis of each calculation of actual expenditures.

9. Where U S WEST intends to continue to rely on the information produced by its cost model in support of its tariffs, we further direct the company to explain how the use of this cost model would produce more accurate estimates of the incremental costs generated by number portability than would be produced by an analysis of actual and planned expenditures. U S WEST also must demonstrate that the use of the model does not produce double recovery of costs already being recovered through other cost recovery mechanisms. This demonstration must include, at a minimum, a comparison of the model's calculation of average costs of number portability-type queries and the model's incremental costs of these queries. U S WEST also must demonstrate its total network switching and signalling costs with and without long-term number portability.

10. With regard to both costs derived from cost models and costs produced from an analysis of actual expenditures, we also direct U S WEST to identify costs for all land, buildings, administration, and maintenance expenses that are claimed as long-term number portability costs. The cost documentation provided with U S WEST's tariff shows that some end-office and tandem switch costs appear related to reprogramming switches to perform 10-digit translations. We require U S WEST to identify these costs and demonstrate that other

services will not benefit from such reprogramming. In the alternative, U S WEST should show how these costs were allocated, using either a cost model or actual expenditures, among the services that benefit from reprogramming.

11. We note that the number portability costs claimed in the long-term number portability tariff filings have varied greatly among carriers. U S WEST's Transmittal No. 965 proposes an end-user charge of \$0.53 and query rates ranging from \$0.00389 to \$0.00466.¹⁵ U S WEST's Transmittal No. 975 proposes an end-user charge of \$0.54 and query rates ranging from \$0.006422 to \$0.007200. Our review of U S WEST's filings indicates that its reported costs are higher than those of other regional Bell Operating Companies (RBOCs). We also note that U S WEST still uses a large number of analog switches throughout its network.¹⁶ U S WEST also claims substantial costs for feature packages and software to enable its switches to provide the number portability functionality. We also note that U S WEST has claimed significant costs for "service delivery," which includes personnel training for negotiating, preparing, and correcting service orders for ported numbers, and for the hiring of additional personnel.¹⁷

12. U S WEST's tariff filings raise the issue of whether its costs of implementing number portability are substantially higher than those of other RBOCs because its network is less efficient. If so, its higher costs may be the result of a failure to have performed general network upgrades for which recovery has been provided through price cap or rate-of-return recovery mechanisms. Where a LEC has failed to upgrade its network and recover the costs of those network upgrades through price cap or rate-of-return recovery mechanisms, it may not be reasonable to allow recovery of higher number portability costs than the LEC would have recovered if the LEC had implemented number portability on an efficient, more modern network.

13. We also note that U S WEST's second number portability tariff, Transmittal No. 975, proposes rates that are higher than the rates U S WEST proposed in Transmittal No. 965. Transmittal No. 975 also raises the issue of whether U S WEST's number portability costs, both in general and in comparison to the number portability costs of other RBOCs, are unreasonable. We, therefore, designate for investigation whether the rates proposed in Transmittal No. 975 are reasonable. We direct U S WEST to explain the method used to determine the additional costs of establishing and providing number portability that were filed

¹⁵ U S WEST Transmittal No. 965, Tariff F.C.C. No. 5, 2nd Rev. Page 13-69.4, Section 13.4.3 at P-Q and 4th Rev. Page 20-18, Section 20.3.3.

¹⁶ See U S WEST Transmittal No. 965, Section 3.2.7 "Service Switching Points" at 21-25.

¹⁷ U S WEST Transmittal No. 965, Section 3.2.9.1 "Service Delivery" at 33.

in Transmittal No. 975, why these additional costs were not included in U S WEST's original tariff filing, and why these costs should be recovered through the end-user and query service charges.

14. As noted above, based on our preliminary review, we find that U S WEST's end-user and query service charges are high relative to other RBOCs that have made long-term number portability tariff filings. The substantially higher charges proposed in U S WEST's tariff filings and U S WEST's inclusion of administrative and business costs in rates for its query services raise substantial issues of lawfulness that warrant an investigation. We designate for investigation whether U S WEST's end-user and query service charges are reasonable. As part of this issue, we designate for investigation whether the costs U S WEST claims for these services are eligible number portability costs. We further designate for investigation whether it is reasonable to allow U S WEST to recover higher number portability implementation costs than those incurred and recovered by LECs with more modern networks.

15. Finally, we note that U S WEST also increased its estimated "forward looking incremental cost" of performing number portability queries by a factor of 1.89 to reflect its view that its network is actually much less efficient than "the most technically advanced and efficient telecommunications equipment."¹⁸ This raises an issue discussed in detail in Section IV below.

III. RECOVERY OF OSS COSTS

A. Background

16. In the *Third Report and Order*, the Commission concluded that carrier-specific costs directly related to providing number portability are limited to costs carriers incur specifically in the provision of number portability services.¹⁹ In that light, the Commission recognized that modifications to Operations Support Systems (OSS) would provide a wide range of services and features that are unrelated to the provision of number portability and that are recoverable in the LECs' rates for other services.²⁰ The order makes clear that only the incremental portion of such modifications or upgrades that is directly related to number

¹⁸ U S WEST Reply at 6.

¹⁹ *Third Report and Order*, 13 FCC Rcd at 11740, para. 72.

²⁰ *Id* at para. 73.

portability functions is eligible for inclusion in the number portability cost recovery mechanism.²¹

17. In the *Cost Classification Order*, the Bureau, acting pursuant to authority delegated to it by the Commission in the *Third Report and Order*, defined incremental OSS costs as the difference between the costs of the OSS upgrades without the number portability functionality and the total cost of the upgrades with the number portability functionality.²² Only the difference in costs is an eligible number portability cost.²³ The *Cost Classification Order* directed the incumbent LECs to distinguish costs that fall under the narrow definition of number portability with respect to OSS from costs incurred to adapt other systems to implement number portability, such as repair and maintenance, billing, or order processing systems.²⁴ Moreover, even where an upgrade to OSS meets the two-part test set out in the *Cost Classification Order*,²⁵ the Bureau required incumbent LECs to make a special showing to establish the portion of any upgrade to OSS that should be attributed to number portability. Specifically, the *Cost Classification Order* directed incumbent LECs to show that all avoided costs and incremental revenues made possible by the upgrade will not cover the costs of the upgrade.²⁶

²¹ *Third Report and Order*, 13 FCC Rcd at 11740, para. 73.

²² *Id* at 11, para. 23.

²³ *Id* at 12, para. 27.

²⁴ *Cost Classification Order* at 7-8, paras. 12, 14.

²⁵ Eligible number portability costs are costs that: (1) would not have been incurred "but for" the implementation of number portability; and (2) were incurred "for the provision of" number portability. *See Cost Classification Order* at 6, para. 10.

²⁶ *Cost Classification Order* at 13, para. 29.

B. Petitions

18. AT&T seeks to suspend and investigate U S WEST's tariff filing because the filing includes costs incurred to modify internal OSS systems for expenses that are not in accordance with the *Cost Classification Order*.²⁷ Specifically, AT&T argues that U S WEST has included the costs of updating various systems that are not costs carriers incur specifically in the provision of number portability service.²⁸

C. Replies

19. U S WEST maintains that the costs included in its tariff filing for OSS were not incidental costs.²⁹ U S WEST also maintains that it would not be able to port numbers to other local service providers without making modifications to certain ordering, tracking, and imaging systems.³⁰

D. Discussion

20. U S WEST's number portability tariff filing demonstrates that U S WEST has included a substantial portion of OSS costs as number portability costs. For example, U S WEST claims a substantial amount of OSS costs in its tariff filing for modifications to existing ordering, and maintenance and repair systems.³¹ Based on our review of the record and the tariff filings, we here designate for investigation the issue of whether U S WEST's number portability tariff includes costs U S WEST incurred to adapt other OSS systems to number portability, in addition to the incremental portion of OSS upgrades that are directly related to number portability. We also designate whether the OSS costs U S WEST claims in its number portability tariff are reasonable.

21. We direct U S WEST to file as part of its direct case an itemized list of OSS costs, arranged by functional area (for example, provisioning, maintenance, repair, billing, etc.). For each OSS modification or augmentation, U S WEST must provide: (1) the total cost; (2) the cost assigned to number portability; (3) the cost allocations among number

²⁷ AT&T Petition at 3.

²⁸ *Id* at 4-5.

²⁹ U S WEST Reply at 4.

³⁰ *Id* at 4.

³¹ U S WEST Transmittal No. 965, D&J, Section 3.2.8, "Operational Support Systems (OSS) Supporting LNP Functions" at 25-31.

portability services; (4) an explanation of how each OSS modification relates to performing queries; (5) an explanation of how each OSS modification relates to porting numbers between carriers; (6) an explanation of how each OSS modification relates to any other number portability function; (7) the basis for cost allocations between number portability and non-number portability services; and (8) the basis for cost allocations among number portability services. For functions other than provisioning of number portability, U S WEST should explain with specificity why it believes a particular OSS modification or upgrade qualifies as eligible under the *Cost Classification Order*.

22. We further direct U S WEST to explain for each OSS modification the manner in which it alters the nature of the task or function previously performed, and why this alteration is necessary "for the provision of portability." In addition, some OSS costs appear to be related to revising OSS systems to perform 10-digit translations. U S WEST should identify these costs and demonstrate that they will not benefit CLASS services, area code overlays, or other services. In the alternative, U S WEST should show how costs were allocated among services that benefit from the changes.

IV. CALCULATION OF OVERHEADS

A. Background

23. In the *Third Report and Order*, the Commission held that "carriers may identify as carrier-specific costs directly related to providing long-term number portability only those incremental overheads that they can demonstrate they incurred specifically in the provision of long-term number portability."³² The Bureau interpreted the Commission's requirement in the *Cost Classification Order* to require that only new overhead costs are eligible for recovery through the federal charge mechanisms and that no allocation of embedded overheads is permitted.³³ The Bureau required, therefore, that the incumbent LECs must demonstrate that any incremental overheads claimed are actually new costs incremental to and resulting from the provision of number portability.³⁴ With regard to the use of overhead allocation factors in determining number portability costs, the Bureau also stated that the use of unbundled network element overhead factors may serve as a useful check on the reasonableness of the incumbent LECs' incremental overhead allocations.³⁵

³² *Third Report and Order*, 13 FCC Rcd at 11740, para. 74.

³³ *Cost Classification Order* at 14-15, para. 33.

³⁴ *Id* at 14-15, para. 33.

³⁵ *Id* at 16, para. 37.

B. Petitions

24. AT&T contends that U S WEST has adjusted its direct costs of performing number portability queries by a factor that works as a general overhead additive.³⁶ AT&T alleges that this overhead additive is not included in the end-user surcharge calculation.³⁷ AT&T contends that U S WEST applies this factor to the direct per-unit costs of default end office, database, and default tandem queries to derive the actual rates charged.³⁸ AT&T notes that U S WEST does not allege that the query rates are based on incremental costs.³⁹ As discussed generally in Section II above, AT&T further argues that U S WEST claims a substantial amount of unexplained administrative costs and business fees that may not be directly related to number portability.⁴⁰

C. Replies

25. U S WEST argues that it has not included general overhead loadings in its query charges as AT&T alleges.⁴¹ U S WEST contends that the 1.89 factor AT&T references in its petition is one of the Part 69 expense factors that U S WEST uses to support all of its new services filings, minus the general overheads.⁴² U S WEST argues that the ratio converts forward-looking costs that are directly related to providing long-term number portability to an actual cost basis. U S WEST also states that the costs of upgrading its analog and older digital switches to provide query service are not reflected by forward-looking cost studies.⁴³

³⁶ AT&T Petition at 6-7.

³⁷ *Id.* at 7.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* at 8.

⁴¹ U S WEST Reply at 6.

⁴² *Id.*

⁴³ *Id.*

D. Discussion

26. Our preliminary review of U S WEST's tariff filing shows that U S WEST has added significant amounts of "miscellaneous costs," "administrative," and "business fees" that appear to reflect the inclusion of some general overhead. For example, these costs include items such as marketing and advertising, franchise fees and licenses, depreciation, earnings, vehicles, and gross receipts taxes.⁴⁴ U S WEST also added cost factors representing an average cost of building and use of space to support employees. We note that U S WEST claims that no general overhead costs were included in its number portability costs. We find, however, that the inclusion of these type of "miscellaneous" costs raises substantial issues of lawfulness that warrant investigation. We designate for investigation whether U S WEST's recovery of miscellaneous costs, administrative and business fees results in recovery of a portion of general overhead costs as U S WEST's number portability charges.

27. We direct U S WEST to explain how it calculated the "miscellaneous incremental expenses" it included in its "network costs." We also direct U S WEST to file an explanation of how overhead cost factors related to such costs as building and space utilization were used in estimating "miscellaneous incremental overheads," "service delivery costs," "administrative," and "business fees" costs. We direct U S WEST to file actual expenditures made or planned for these functions.

28. We also designate for investigation whether U S WEST's use of a 1.89 factor to adjust its estimated "forward looking incremental" query cost constitutes use of a general overhead factor. We direct U S WEST to explain why use of this factor does not result in recovery of embedded costs rather than incremental costs of number portability.

V. ALLOCATION OF NUMBER PORTABILITY COSTS AMONG NUMBER PORTABILITY SERVICES**A. Background**

29. The Bureau provided specific, detailed guidance to the LECs in the *Cost Classification Order* as to the proper method of allocating eligible number portability costs between the end-user and query service charges. First, the Bureau determined the proper allocation of costs incurred for specific number portability services. The Bureau stated that incumbent LECs should allocate any portion of eligible number portability costs that is

⁴⁴ U S WEST Transmittal No. 965, D&J, Section 3.2.9.2 "Other Miscellaneous Costs" at 34 and Section 3.4 "LNP Query Costs" at 35-38.

incurred specifically to provide N-1 query services to the N-1 query services.⁴⁵ Where the incumbent LECs intend to establish several types of N-1 query services, the Bureau directed that the LECs allocate the eligible number portability costs incurred specifically to provide each type of query service to that particular service.⁴⁶ Similarly, the Bureau directed the incumbent LECs to allocate costs incurred only to provide number portability functions to end-users to the end-user charge.⁴⁷

30. The Bureau also determined the proper allocation of any remaining eligible number portability costs.⁴⁸ Generally, the Bureau directed the incumbent LECs to allocate these remaining costs on the basis of the capacity requirements for each type of service.⁴⁹ For incumbent LECs that elect to provide several types of N-1 query services, the Bureau directed that allocation of costs should be made to each service on the basis of the capacity requirements for the service.⁵⁰

B. Discussion

31. U S WEST appears to have allocated certain costs directly to one or another number portability service and to have allocated remaining costs according to capacity utilization, as required by the *Cost Classification Order*.⁵¹ At the same time, however, descriptions contained within U S WEST's confidential cost support suggest that some costs were actually allocated using U S WEST's switching cost model output. As a result, it is unclear how U S WEST's costs were actually allocated among number portability services.

32. To determine whether U S WEST has allocated number portability costs consistent with the determinations made by the Bureau in the *Cost Classification Order*, we

⁴⁵ *Cost Classification Order* at 17, para. 40.

⁴⁶ *Id.* at 17, para. 40.

⁴⁷ *Id.* at 17, para. 40.

⁴⁸ Remaining eligible costs are those costs that are incurred by an incumbent LEC in general to establish and provide number portability service. These costs are not incurred specifically to provide a particular query service but are incurred to provide number portability as a whole.

⁴⁹ *Cost Classification Order* at 17, para. 41.

⁵⁰ *Id.*

⁵¹ See U S WEST Transmittal No. 965, Charts 2a and 2b.

designate for investigation the issue of whether U S WEST's method of allocating number portability costs between the end-user and query service charges is reasonable.

33. We direct U S WEST to provide more complete explanations of its basis for allocating number portability costs among services and to explain more fully why its method is reasonable. In addition, we direct U S WEST to submit, as part of its direct case, an explanation of how the costs shown on the worksheet it submitted in its cost support, described in the *Cost Classification Order*,⁵² correlate with costs shown elsewhere in its cost support. U S WEST must include sufficient data and calculations to show the assumptions used to allocate the costs of shared facilities, such as costs of the shared regional databases and links.

VI. JURISDICTIONAL SEPARATIONS

A. Background

34. In the *Third Report and Order*, the Commission found that section 251(e) authorizes the Commission to provide the distribution and recovery mechanism for all the costs of providing long-term number portability.⁵³ The Commission concluded that an exclusively federal recovery mechanism for long-term number portability will minimize the administrative and enforcement difficulties that might arise were jurisdiction over long-term number portability divided.⁵⁴ The Commission noted that under the exclusively federal number portability cost recovery mechanism, incumbent LECs' number portability costs will not be subject to jurisdictional separations.⁵⁵

B. Discussion

35. Although the Commission established an exclusively federal recovery mechanism for long-term number portability in the *Third Report and Order*, some LECs may have included, or may be including, some or all of these costs in their jurisdictional separations procedures. To the extent number portability costs have been assigned to the intrastate jurisdiction, those costs also may have been recovered through intrastate rates. Recovery in the federal jurisdiction may, thus, constitute double recovery. Similarly, to the

⁵² *Cost Classification Order* at 20, para. 49.

⁵³ *Third Report and Order*, 13 FCC Rcd at 11720, para. 29.

⁵⁴ *Id.*

⁵⁵ *Id.*

extent number portability costs are assigned to the intrastate jurisdiction prospectively, and LECs seek to recover those costs through intrastate rates, recovery in the federal jurisdiction would constitute double recovery.

36. We designate as an additional issue the question of what separations treatment and what intrastate ratemaking treatment may have been or may be accorded to U S WEST's number portability costs. We direct U S WEST to file an explanation of how prior years costs related to number portability implementation were treated with respect to jurisdictional separations. U S WEST should demonstrate that the number portability costs booked in past periods and included in the development of federal number portability charges have not been recovered already in the state jurisdiction. Alternatively, U S WEST should explain how state ratepayers will be made whole if the Commission allows federal recovery of costs previously assigned to the intrastate jurisdiction and included in the state ratemaking process. We also direct U S WEST to file an explanation of how costs related to LNP implementation will be treated prospectively with respect to jurisdictional separations. U S WEST should demonstrate that number portability costs included in the development of federal number portability charges will not be recovered prospectively in the state jurisdiction.

VII. PROCEDURAL MATTERS

A. Filing Schedules

37. This investigation will be conducted as a notice and comment proceeding. We have designated this investigation CC Docket No. 99-35. The following company is the party designated to this investigation: U S WEST Communications, Inc.

38. This party shall file its direct case no later than April 23, 1999. The direct case must present the party's position with respect to the issues described in this Order. Pleadings responding to the direct case may be filed no later than May 3, 1999, and must be captioned "Oppositions to Direct Case" or "Comments on Direct Case." U S WEST may file a "Rebuttal" to oppositions or comments no later than May 17, 1999.

39. An original and six copies of all pleadings shall be filed with the Secretary of the Commission. In addition, parties shall file two copies of any such pleadings with the Competitive Pricing Division, Common Carrier Bureau, 445 12th Street, S.W., 5th Floor, Washington, D.C. 20554. Parties shall also deliver one copy of such pleadings to the Commission's commercial copying firm, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036. Members of the general public who wish to express their views in an informal manner regarding the issues in this investigation may do so by submitting one copy of their comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room 222, Washington, D.C. 20554.

Such comments should specify the docket number of this investigation. Parties are also encouraged to submit their pleadings electronically through the Electronic Tariff Filing System.

40. All relevant and timely pleadings will be considered by the Commission. In reaching a decision, the Commission may take into account information and ideas not contained in pleadings, provided that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of reliance on such information is noted in the order.

B. *Ex Parte* Requirements

41. This tariff investigation is a "permit-but-disclose proceeding" and subject to "permit-but-disclose" requirements under section 1.1206(b) of the rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.⁵⁶ Other rules pertaining to oral and written presentations are set forth in section 1.1206 (b), as well.

VIII. ORDERING CLAUSES

42. **ACCORDINGLY, IT IS ORDERED** that, pursuant to sections 4(i), 4(j), 201(b), 203(c), 204(a), 205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 201(b), 203(c), 204(a), 205, and 403, and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, the issues set forth in this Order **ARE DESIGNATED FOR INVESTIGATION**.

43. **IT IS FURTHER ORDERED** that U S WEST Communications, Inc. **SHALL BE** a party to this proceeding.

⁵⁶ See 47 C.F.R. §1.1206 (b)(2), as revised.

44. **IT IS FURTHER ORDERED** that U S WEST Communications, Inc. **SHALL INCLUDE**, in its direct case, a response to each request for information that it is required to answer in this Order.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Yog R. Varma", with a long horizontal stroke extending from the end.

Yog R. Varma
Deputy Chief, Common Carrier Bureau